



Crl.O.P.(MD)No.2165 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.2165 of 2024
and
Crl.M.P.(MD)No.1641 of 2024

Rabin

... Petitioner

Vs.

1.The State,
Rep. by the Inspector of Police,
Courtallam Police Station,
Tenkasi District.
(Crime No.55 of 2023)

2.Ponmani

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the impugned Charge Sheet in Spl.C.C.No.232 of 2023, on the file of the Special Court for POCSO Act Cases, Tirunelveli, dated 25.06.2023, and quash the same as illegal.



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For Petitioner : Mr.S.Rajesh Kumar
For R1 : Mr.K.Sanjai Gandhi
Government Advocate
(Criminal Side)
For R2 : Mr.B.Michael Sebastin

ORDER

The petitioner / Accused in Spl.C.C.No.232 of 2023, who is facing trial before the Special Court for POCSO Act cases, Tirunelveli, under Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012, has filed this quash application.

2. The contention of the learned counsel for the petitioner is that the petitioner and the victim girl were in love with each other, and the said fact was known to the victim's family, and that there was no serious objection to their relationship. They were regularly communicating with each other. However, during one such conversation, they had a misunderstanding, and the victim refused to speak with the petitioner. She was sitting at the bus stand with her classmates when the petitioner is said to have forcibly grabbed the victim by her right hand and pulled her, which she resisted. Afterward, the petitioner allegedly kissed her on



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the cheek. The victim girl felt embarrassed, but proceeded to School, informing her aunt about the incident on the way. She then attended School as usual. Following this, the victim's mother went to the Police Station and lodged a complaint. The Police registered a case, visited the scene of the incident, prepared an Observation Mahazar and Rough Sketch, and, after completing the investigation, listed witnesses L.W.1 to L.W.21 and filed the charge sheet.

3. The further contention of the learned counsel for the petitioner is that the petitioner is currently studying at a Polytechnic and is the only person in his family who has reached this level of education. At the time of the incident, he was 19 years old. The petitioner and the victim girl were in love with each other and the relationship was not opposed by the victim's family. During one of their normal conversations, they had a small misunderstanding. Thereafter, the victim refused to speak to him. This caused the petitioner, at that young age, to act impulsively and use force by pulling her, but nothing more occurred. The petitioner contends that this incident has been wrongly interpreted and portrayed as though he pulled the victim by her hand with sexual intent. However, for an act



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to be considered to have sexual intent, merely pulling the victim's hand is insufficient; it must be followed by other actions, which was not the case here.

4. The learned counsel for the petitioner further submitted that the victim girl's classmates, L.W.2 and L.W.3, have provided contradictory versions of the events. After knowing about the petitioner's true intentions and actions, the victim's family has now come forward to file a compounding petition and seek withdrawal of the case.

5. The learned counsel for the petitioner further submitted that both the petitioner and the victim, at that age, did not fully understand the seriousness or consequences of their actions. They were in a relationship, but during a disagreement, the petitioner acted impulsively, which was neither encouraged nor accepted by the victim. As a result, a case was registered. The learned counsel for the petitioner also submitted that due to the registration of this case, the petitioner's life is in jeopardy, and he is unable to focus on his studies.



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6. The learned Government Advocate (Criminal side) for the first respondent submitted that the petitioner's actions in a public place, pulling the victim girl and placing his lips on her cheek, clearly amounted to an act with sexual intent. As a result, the respondent Police registered a case under Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012. The victim girl, along with her classmates, L.W.2 and L.W.3, who were present at the scene, confirmed the petitioner's actions. Based on the complaint filed by the victim's mother, the case was registered. During the investigation, witnesses from the scene of occurrence, as well as others, were examined. On completion of the investigation, a charge sheet was filed, listing witnesses L.W.1 to L.W.21 and the materials collected. The case is now ripe for trial.

7. The learned Government Advocate (Criminal side) fairly submitted that the victim girl has filed an affidavit, a copy of which has been served to the respondent Police, confirming that she is no longer interested in pursuing the case. In the affidavit, the victim states that, in



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the heat of the moment, she had filed the complaint out of a sense of repulsion. However, she later came to understand that the petitioner had not acted with any sexual intent and that the incident was merely a natural act. Considering their past relationship, she and her family have decided to withdraw the complaint and not to prosecute the petitioner.

8. A Joint Memo of Compromise has been filed before this Court which have been signed by the petitioner and the second respondent and also by their respective counsels. The petitioner, the victim and the second respondent are present before this Court and they were identified by Mr.T.Muthukrishnan, Special Sub Inspector Police, Courtallam Police Station, Tenkasi District, as well as by the learned counsels appearing for the parties. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

9. Considering the above submissions, this Criminal Original Petition is allowed and the proceedings in Spl.C.C.No.232 of 2023, on the file of the Special Court for POCSO Act cases, Tirunelveli, is quashed as against the petitioner and the petitioner is discharged from the



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said case. The joint compromise memo shall form part and parcel of this order. Consequently, connected Miscellaneous Petition is closed.

07.11.2024

NCC : Yes / No
Index : Yes / No
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To

- 1.The Judge,
Special Court for POCSO Act Cases,
Tirunelveli.
- 2.The Inspector of Police,
Courtallam Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
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